

**CONSERVATION COMMISSION**  
**MINUTES OF THE MEETING**  
**WEDNESDAY, JANUARY 9, 2008 – 6:45 PM**  
**CATA CONFERENCE ROOM**  
**3 POND ROAD**  
**ROBERT GULLA, CHAIRMAN**

**MEMBERS PRESENT**

Robert Gulla, Chairman  
Ann Jo Jackson, Vice Chair  
John Feener  
William Febiger  
Brandon Frontiero

**MEMBERS ABSENT**

Arthur Socolow  
Charles Anderson

**STAFF PRESENT**

Nancy Ryder, Conservation Agent  
Not present:  
Carol Gray, Recording Clerk  
(notes were taken and  
transcription done accordingly)

Mr. Robert Gulla, Chairman opens the meeting of the Gloucester Conservation Commission.

**CONTINUATIONS - SHORT REVIEWS, 1-5 MINUTES MAXIMUM, REVIEW OF AMENDED, UPDATED OR FINAL INFORMATION, STATUS REVIEWS, MINOR AMENDMENTS, SIGNING DECISIONS, CLOSURE OF HEARINGS, ETC.**

**12 RIO DRIVE**

This is a continuation to vote on whether or not to reopen the public hearing.

The Agent notes that's third party review of the resource delineation and compliance under WPA was conducted by P. Rosen of GeoPlan, a copy is available in the file if needed.

No review of the local ordinance appears to have been conducted in the third party review.

Outstanding items, as noted in the decision issued, would now be construction details, sequence, BMPs and such.

S. Poole submitted the check to cover the cost of third party consultation as requested.

It is to be continued automatically to 02/06/08 at 8:00 PM.

The GCC voted to reopen the public hearing, scheduled initially for 01/16/08 at 9:00 PM in the legal posting.

**MOTION:** John Feener moves to continue the matter to the above date and time.

**SECOND:** Ann Jo Jackson      **VOTE:** 5-0 all in favor.

The commission discussed the third party consultation reimbursement, the status of the SoC and Superior Court appeal. There are requests for stays on both pending completion of an attempt to resolve the issue with the Commission. If the project can be resolved all appeals will be withdrawn.

**3 THURSTON LANE**

The Agent reviews with the GCC and states that the applicant is working w/ City Engineering on a final mitigation plan for 2:1 replacement via vegetation.

She further notes that she expects to receive a final statement from Mike Hale today.

This is at the office for processing as it is done and signed noting that 2:1 mitigation arranged and approved through city engineering.

### **39 WINGAERSHEEK**

The Agent reviews with the GCC and states that the project site is within Barrier Beach, and Coastal Dune.

The GCC and DEP both understood that the home was being taken down to the foundation. The foundation walls are stucco and are the first floor of the home, which is on a slab. The first floor and slab foundation will remain, the second floor (which I and the DEP reviewer both thought was the first floor) is being removed and reconstructed, along with the other work outlined DEP is leaving the decision to the GCC discretion.

According to the Building Inspector, if major renovation occurs that exceeds the value of the existing home, then the reconstruction is considered new construction. If changes are made to a structure then it must come into building code, which would mean meeting flood plain construction standards. And last but not least, if the renovations are major, and the sole intent of the design was to avoid regulatory required pilings or structural detail, that is not an acceptable reason.

She notes that DEP and MACC had no direct definition of reconstruction or definition of when renovation was significant enough to constitute reconstruction within the DEP framework. In my opinion, less short term adverse impact would occur by leaving the existing foundation and walls than by removing it.

However the structure as exists does not meet the barrier beach and coastal dune performance standards. Free migration in volume and form of the dune is not permitted by the existing structure. Should the primary dune be compromised by storm, then the first floor of the home would likely be subject to storm tides.

Should construction or building code requirements call for the removal of the foundation walls in any manner, then the entire project is recommended to be required to be redesigned to be on pilings in compliance with the WPA regulations.

I have requested a narrative more clearly defining the limits of reconstruction on the home. This is at the office for processing as it is approved, done and signed.

# 28-1847 duplicate issue- re-sign

The Agent notes that this is done, approved signed and in process.

**PUBLIC COMMENT** none/closed.

### **23 SALT ISLAND ROAD** (Map 176, lot 49)

This is a Notice of Intent submitted by John Smallwood to raze and re-construct dwelling in buffer to coastal bank.

The Agent notes that site photos needed.

Work is in buffer to coastal bank.

Mitigation plantings for additional impervious discussed during the site visit but not on the plan submitted. The narrative does call for limited to no maintenance landscaping. A detailed specific plan should be submitted showing the proposed concepts.

Lawn area shown below the driveway is likely secondary coastal bank and could be utilized for a vegetated landscape area consistent w/ coastal vegetation that would result in a net improvement to the coastal area.

Plantings and vegetated swale (if possible) below the proposed new drive are recommended to control water quality entering the coastal bank area.

A retaining wall is located along the edge of coastal bank and an inquiry should be made regarding any work or repairs that are to be done.

Review and approval by engineering is still outstanding, due to extent of ledge on site. Storm water control will likely need to be via strategic plantings. A waiver from local regulations may be required.

Impervious calculations pre and post are recommended to be submitted.

The site is highly developed now and contains a large amount of visible ledge. Some rock removal is noted and possibly included blasting. This should be clearly defined and specified due to the proximity to other structures.

DEP calls for coastal bank profiles. Coastal bank is almost exclusively a steep vertical retaining wall. Photos would clarify this.

This is at the office for processing as it is approved, done and signed.

### **34 SLEEPY HOLLOW ROAD** (Map 257, lot 38)

This is a Notice of Intent submitted by Robert Swanson to renovate dwelling and repair septic system in buffer to coastal dune.

The Agent reviews with the GCC stating that while the site location is dune as noted by DEP and not buffer to dune, the site is not within Barrier Beach.

The work involves septic system Title 5 upgrade, utility lines, and a deck expansion above a walkway area. Septic system is on the road side of the structure.

She states that in her opinion the work is primarily accessory to the existing home.

Dumpster and stockpiling are on the existing drive area.

No construction vehicles are allowed off the road/drive area for the deck reconstruction.

The utility project is one day cut and fill, any vegetation can be moved and replaced in the same location.

NHESP response is in and there are no concerns

She states that this is done, approved, signed, on her desk for processing.

She further notes there is LP for siding, windows OK today, with strict limit of construction zone to w/in 10 feet of house, no work, stockpiling, cutting etc on dunes or grass, all in drive, dumpster, etc in drive.

### **15 WATERSIDE LANE** (Map 201, Lots 104,119, 121 and 122)

This is a Request for Determination, submitted by East Gloucester Marine to clear brush, remove select trees and construct a roadway.

Comments from Dave Sargent 1/8/08, Jim Caulkett 1/8/08 and an abutter have been submitted to the record and are recommended to be reviewed by the Commission.

Site visits were taken on 1/2/08 (N. Ryder, L. Nitkiewicz and J. Dick) and 1/8/08 (J. Caulkett, D. Sargent, L. Nitkiewicz)

The Agent discussed the matter with the GCC and a determination was made and the matter was continued to 01/16/08 at 9:30 PM as this may be withdrawn and a possible NoI to be filed.

### **NORTH LANDING WAY** (Map 233, lot 6)

This is a Notice of Intent submitted by Mary Whitney in response to Enforcement Order issued to maintain sand nourishment in proximity to salt marsh and in riverfront and coastal bank areas at North Landing Way.

The Agent reviews with the GCC with the following information:

No verification from DEP or Dave Sargent that they agree that the site is historic coastal beach were obtained.

The closest I came to a common conclusion, was that periodically residents dumped sand to create a beach.

In reviewing the photos submitted and the site plans, no definitive proof that the specific area in question, was clearly beach, was derived from anyone looking at the photos or plans.

There is no evidence that this was consistent or compliant with the WPA and not repeated individual violations that caused a buildup of sand that is now being claimed to be a beach.

The matter was continued to 01/16/08 at 9:30 pending written information from Dave Sargent.

#### **17 HORTON STREET** (Map 128, lot 22)

This is a Notice of Intent submitted by Theodore Williams to construct a pier, seasonal gangway and float at 17 Horton Street

The Agent notes that there was a request for continuation to Feb 6 submitted by applicant.

The matter was continued to 02/06 9:30 PM.

#### **40 ROWLEY SHORE DRIVE** (Map 141, lot 36)

This is a Notice of Intent submitted by Robert Spaner to construct an addition in buffer zone to coastal bank. (Map 141, lot 36).

The Agent reviews with the GCC noting the following:

There have been no comments from DEP

A site visit was taken on 1/7/08 – L. Nitkiewicz and B. Manuell present. Leslie took notes which are in the file and the information therein was provided to the GCC by the Agent. Photos are in the file as well.

The matter was continued to 02/06/08 at 8:30 PM for further consideration.

#### **19 SQUAM ROCK ROAD** (Map 120, lot 3).

A Notice of Intent submitted by Tamansin Foote to raze the dwelling and reconstruct a new dwelling in the buffer zone to coastal bank.

The Agent reviews with the GCC noting the below information:

DEP questions the coastal bank location. Cross sections should be submitted. DEP notes that while excavation is 40 feet from the bank, fill is much closer and should be clearly defined and reviewed.

A site visit was taken on 1/7/08 - L. Nitkiewicz and Bill Manuell present

This project is a tear down of existing house (cottage) and replacement with new house, including subsurface portion with grass over it and foundation,

There will be significant re-grading for this work, and additional landscaping work including, a paver stone patio and tree removal in buffer zone to coastal bank.

The property also has an area of land subject to coastal storm flowage with a VZone of 14ft.

The plan does not give a very clear representation of the outline of what presently exists on the plan within where replacement house will be built.

Controls should wrap around slightly along the wall to protect this area and not cause a breach.

There is to be no material taken off site, but material will be added. The amount of that material should be included in the narrative, as well as the amount of time to do the work and how long the exposed soil will be left on site, as equipment is proposed to be used for digging and earth moving.

A sequencing of all these events should be included in greater detail than in the narrative because of proximity to the bank.

On site blasting was discussed at the inspection. Bill indicated that some blasting might be needed, if so that should be included and a pre-blast survey should be requested.

Additionally, there was discussion of planting enhancement with some use of boulders or stone on the driveway side of the house. Bill was informed that this should also be included in the narrative and on the plan if it is being proposed at this time or an amendment or new filing would be required for that work in the future.

There is also the issue of water flow because of grade changes.

No plan is provided or details for any swales of any kind.

They may not be needed but this should be explained because of the grade changes proposed that I would not call "minor" as contained in the narrative.

Flood zone maps confirm the 14ft elevation only on site as shown in report.

A review and comment from the engineering department is outstanding.

Additional clarifications and information is needed.

Site monitoring may be needed during construction.

Site photos are in the file.

The matter was continued to 01/16/08 at 7:30 PM for closure, pending amended plans submitted, and (1 copy).

### **80 COMMERCIAL STREET** (Map 1, Lot 11)

This is a Notice of Intent submitted by Rumpf Design Group LTD to remove collapsed deck, replace piles, rebuild deck and wharf and re-construct building

The Agent reviews with the GCC noting the following:

DEP has no comments.

The site is in Designated Port Area.

Violation notices and notice that an NOI was required to be submitted and an OoC issued prior to any work was sent to the landowner.

On October 5, 2007 the applicant applied for an emergency cert to replace piles for a wharf that collapsed. The emergency certificate for removal of debris from the collapsed building was approved but the request to install piles without filing a NOI was denied as the landowner/applicant had been notified in Feb 2006 that the structure was in danger and neglected to take action, obtain permits and remedy the situation then. Multiple notices were sent to the landowner or reps, the most clearly descriptive and final notice was on November 9, 2007, notifying them of the need to engineer the project, submit an application, and follow the concom procedure as outlined in the partial emergency cert issued in October.

A site visit was taken by The Agent on 11/27/07. At that time, it was clearly stated that no work could begin until a permit was obtained from ConCom, other than debris removal as ordered by the Building Inspector to create a safe area.

At some point prior to the public hearing and/or submittal of the NOI and post 11/27 site visit, the landowner/applicant installed piles into the harbor as shown on photos in the file.

In response to the NOI filing, a pre-hearing site visit was taken to 80 Commercial Street, on January 8, 2008 by L. Nitkiewicz, D. Sargent, J. Caulkett.

The inspection revealed that a floating boom has been installed and is functioning, but that piles have been driven (15 approximately) and material removed and stockpiled in containers on site.

The applicant was not given permission to do this work, moreover they were specifically told not to do it, yet they went ahead anyway.

While the owner and the rep. were not present at the inspection they should explain why this work was done without first receiving an OOC.

The total number of piles to be replaced and the total number of new piles added should be submitted, as well as whether any existing ones are to remain.

This is not clearly shown on a plan, which shows existing and new.

Clarification is needed to determine total impact to the land under ocean.

A plan for removal of material, i.e. old concrete etc. and how this will be removed should be submitted along with stockpiling information.

Square area of entire replacement should be shown to prove it is in the exact same location or if there is any expansion.

Photos are in the file.

This matter was continued to 02/20/08 at 8:30 as significant information is needed.

### **27 KONDELIN ROAD** (Map 197, lot 14)

A Notice of Intent filing (under the City of Gloucester Wetlands Ordinance only) by Ralph Hobbs to construct a paved outdoor shed area, retaining wall, and stormwater system with associated grading.

The Agent reviews with the GCC regarding the following information:

This hearing had been continued indefinitely pending completion of the first phase of the third party review. This was completed and copies of the report from EcoTec submitted to the GCC.

At this point review of the revised delineation per EcoTec is on the table as well as discussion of the phase II and phase III portions of the requested consultation review for the Commission.

The matter was continued to 02/20/08 at 7:30 PM with a 30 minute slot. The applicant is to call or notify the GCC as a courtesy by 02/06/08 if they will not be ready so that others may have the allotted time period.

### **15 HORTON STREET** (Map 128, lot 23).

This is a Notice of Intent filing in response to a violation notice submitted by Ginger Attaya for excavation of coastal bank to connect to municipal service and to construct parking space and do selective tree pruning.

The Agent reviews with the GCC the following information:

Revised site plans reflecting the work were submitted on 1/9 and will be mailed in the next commission packets.

The owner will be attending to start dialogue with the GCC and the project is under review at this time by DEP.

The matter was continued to 01/16/08 and is already listed on the agenda.

### **18 AND 20 TWO PENNY LANE**

#### **(Martin and Falk)**

Enforcement Hearing or Notice of Intent review.

The Agent reviews with the GCC noting the following information:

Mr. Falk of 20 Two Penny Lane is not cooperating w/ L. Nitkeiwicz requests and has submitted only partial information requested.

The work on the Falks property (shared driveway) includes work in coastal dune resource, expansion of driveway, fill, destruction of vegetation, etc without a valid OoC.

The portion of the hearing for 20 Two Penny Lane involving the Falks be continued as an Enforcement Hearing to the 16<sup>th</sup>.

The properties are owned separately but share a common driveway. As most of the work was done in the shared drive both owners and properties were included in the enforcement order. At this time, I recommend that they be separated in terms of enforcement or review hearings and treated separately.

The Martins of 18 Two Penny, have submitted a letter permit amendment request to their existing OoC 28-1676 for work done in exceedence of the permit and for long term maintenance of the gravel parking areas that were already approved in the noted OoC.

I recommend approval of the amendment request with clear statement notifying the landowner that the maintenance in no way includes expansion of any type including height, does not allow regarding and is replacement of minor amounts of stone by hand only.

The landowner mentioned a few inches of fill and possibly occasional grading.

I clearly stated that exceeded maintenance and would need a new filing.

The Letter Permit amendment was approved with The Martins' to be pulled out of the EO file #18 and separated from #20.

The Falks will moved forward with the Enforcement hearing.

## **VIOLATIONS – HEARINGS AND AGENTS REPORTS**

### **Requests for Letter Permits**

#### **16 RIGGS POINT ROAD** – Charla Scott

A requested Letter Permit in regards to construction of a deck under an existing deck permitted under 28-1281.

The GCC voted that they would like an RDA filing and no Letter Permit was issued.

### **Requests for Certificates of Compliance:**

No new site visits for CoC requests will be taken until April 2008.

### **Correspondence and Other Commission Business as time permits**

A variety of correspondence and other GCC business was discussed with the Agent and the members of the GCC.

Meeting adjourned.

Respectfully submitted,

Carol A. Gray  
Recording Clerk